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Attorneys for Plaintiff DMF, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

DMF, Inc., a California corporation,
Plaintiff,

v.

AMP Plus, Inc. d/b/a ELCO Lighting,
a California corporation; and

ELCO Lighting Inc., a California
corporation,

Defendants.

Civil Action No. 2:18-cv-07090 CAS
(GJXx)

**Joint Stipulation Regarding Leave
For Defendants To Update Their
Invalidity Contentions**

Ctrm: 350 W. First. Street, Room 8D

Hon. Christina A. Snyder

1 Defendants AMP Plus, Inc., d/b/a ELCO Lighting and ELCO Lighting Inc.
2 (referred to collectively herein as “ELCO”) and Plaintiff DMF, by and through their
3 respective counsel, hereby stipulate and agree that ELCO may amend its Invalidity
4 Contentions as follows:

5 1. On January 9, 2019, the Parties submitted a Joint Rule 26(f) Report
6 (Dkt. 97) that, among other things, required the Parties to exchange Infringement
7 Contentions and Invalidity Contentions on February 15, 2018 [sic: 2019] and that
8 “[t]he parties may supplement their respective infringement and invalidity
9 contentions with leave of Court, based on a showing of good cause under Patent
10 Local Rule 3-6 of the Northern District of California Patent Local Rules.” (Dkt. 97 at
11 8).

12 2. On January 25, 2019, the Parties submitted a Stipulation Re Setting Of
13 Remaining Dates and Deadlines Submitted By Parties In Their Rule 26(f) Report
14 (Dkt. 121) that proposed resetting the date for the Parties to exchange Infringement
15 Contentions and Invalidity Contentions to March 1, 2019.

16 3. On January 28, 2019 (Dkt. 129), the Court entered an Order adopting
17 the parties proposed resetting of dates, including the exchange of Infringement
18 Contentions and Invalidity Contentions on March 1, 2019.

19 4. On March 1, 2019, Plaintiff DMF provided Infringement Contentions
20 alleging infringement of the following claims of U.S. Patent No. 9,964,266:

- 21 ○ Claim 1 and its dependent Claims 2, 4-11, 13-16
- 22 ○ Claims 19 and 21 that depend from Claim 17
- 23 ○ Claim 25 that depends from Claim 22
- 24 ○ Claim 26 and its dependent Claims 28-30

25 5. That same day, Defendants ELCO provided Invalidity Contentions
26 asserting that ‘266 Patent Claims 1-28 were either anticipated or would have been
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1 obvious based on twelve alleged prior art references.¹ Specifically, ELCO asserted
2 that “Claims 1-28 are anticipated under 35 U.S.C. § 102(a) by Imtra,” Kim, LMH2
3 or Harbers alleged prior art references. ELCO also asserted that “Claims 1-28 are
4 obvious under 35 U.S.C. § 103(a)” based on alleged primary prior art references
5 Harbers, Imtra, Kim, Yoshiro, Goisten, Reisenauer and LMH2 in combinations with
6 alleged prior art references Beneshon, Turan, Cooper, Blackman, Gifford, Johnson
7 or Foshan.

8 6. Defendant ELCO’s Invalidity Contentions provided Claim Charts for
9 Claim 1 of the ‘266 Patent, but did not include Claim Charts for the other ‘266
10 Patent Claims that ELCO asserted were invalid based on the twelve alleged prior art
11 references. ELCO asserts that it inadvertently did not include the other Claim Charts
12 and that good cause exists for ELCO to be granted leave to amend its Invalidity
13 Contentions to provide them.

14 7. Plaintiff DMF agrees not to contest that ELCO has good cause to amend
15 its invalidity contentions to provide the omitted Claim Charts for ‘266 Patent Claims
16 2-28 based on the twelve identified alleged prior art references.

17 8. IT IS HEREBY AGREED AND STIPULATED by and between the
18 parties, through their respective counsel, that the Court enter an Order granting
19 ELCO’s request for leave to amend its Invalidity Contentions by Wednesday, March
20 6, 2019 to provide the omitted Claim Charts for ‘266 Patent Claims 2-28 based on
21 the twelve identified alleged prior art references, which leave to amend will not
22 otherwise alter any deadline set in the Court’s Scheduling Order.

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25 ¹ U.S. Patent No. 9,222,661 (“Kim”); Imtra 2012 Catalog (“Imtra”); U.S. Patent
26 No. 9,217,560 (“Harbers”); U.S. Patent No. 7,488,097 (“Reisenauer”); U.S. Patent
27 No. 5,975,323 (“Turam”); U.S. Patent No. 9,065,264 (“Cooper”); U.S. Patent No.
28 9,366,418 (“Gifford”); U.S. Patent No. 7,347,580 (“Blackman”); China Patent
Application No. CN202733693U (“Foshan”); U.K. Patent NO. GB 2,427,020
 (“Johnson”); Japan Patent Application No. JP2007265961A (“Yoshiro”) and Cree
LMH2 LED Module (“LMH2”).

1 By: /s/ David W. Long
David W. Long, Esq.

2 David W. Long
3 ERGONIQ LLC

4 Ben M. Davidson
DAVIDSON LAW GROUP ALC

5 *Attorneys for Plaintiff*
6 *DMF Inc.*

7 Date: March 5, 2019

By: /s/ Robert E. Boone III
Robert E. Boone III, Esq.

Robert E. Boone III
BRYAN CAVE LEIGHTON PAISNER

Attorneys for Defendants
AMP Plus, Inc., d/b/a ELCO Lighting,
and ELCO Lighting Inc..

Date: March 5, 2019

Certification Pursuant To Local Rule 5-4.3.4(a)(2)(i)

Pursuant to Central District of California Local Rule 5-4.3(a)(2)(i), I hereby certify that the content of this document is acceptable to Mr. Ben M. Davidson, Esq., counsel for Defendants, and I have obtained his authorization to affix his electronic signature to this document.

Dated: March 5, 2019

By: /s/ Robert E. Boone III